

clothing including protective clothing such as glasses and gloves to protect them from burns or cuts and that it would be most unlikely for anyone to grab the exposed filament of a broken light bulb, assuming, without deciding, that such a contact might result in an electrical shock,

Accordingly, I affirm my finding that the violation charged did, in fact, occur, that it was not serious, that the negligence was slight and that, after considering the other criteria, the amount of the penalty warranted should be reduced from \$126 to \$10.

Citation No. 2521469

While Inspector Manis was writing his citation for the alleged failure to guard the electrical connections on the No. 3 pump motor, Inspector Grabner wrote his third citation of the day. This stemmed from his observation of an alleged unguarded keyway on a 10 1/2 inch long shaft that protruded from the No. 3 motor some 43 inches off the motor platform. It was not claimed that the shaft itself was a hazard but that the keyway which was cut into the shaft to some unspecified depth might, because it was rusted and rough, catch or entangle someone's clothing and possibly strangle them (PX-13). Because this was unlikely Inspector Grabner wrote only a 104(a), non-S&S citation for which a \$20 penalty was proposed.

The evidence showed that because of its location the likelihood of anyone coming into contact with the keyway while the motor was running was extremely remote, if not entirely speculative. Only a maintenance man regularly went near the shaft and then only when the motor was turned off. Anyone else wishing to approach the shaft would have to climb an 8 to 10 foot high stairway, step over a large discharge pipe, and other obstacles and make several sharp turns to even get near it. Even so there was no pinch point and the likelihood of a piece of clothing from a man's waist or neck becoming so entangled in the open keyway in such a way as to inflict an injury, let alone strangulation, was so inexplicable as to defy description or belief. In fact, the inspector admitted he found the violation to be non-S&S because it was unlikely to cause injury to anyone (Tr. 239). For these reasons, I found the violation charged did not, in fact, occur. I see no reason to change that determination.

The premises considered, therefore, it is ORDERED:

1. That for the two violations found the operator pay a penalty of \$136 on or before Friday, September 19, 1986.